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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/801,848	03/08/2001	Christopher Keith	125462	1156
52531 7590 12/23/2009 CHRISTENSEN O'CONNOR JOHNSON KINDNESS PLLC 1420 FIFTH AVENUE SUITE 2800 SEATTLE, WA 98101-2347				
EXAMINER				
BARTLEY, KENNETH				
ART UNIT		PAPER NUMBER		
3693				
MAIL DATE		DELIVERY MODE		
12/23/2009		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

09/801,848

Applicant(s)

KEITH, CHRISTOPHER

Examiner

KENNETH L. BARTLEY

Art Unit

3693

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 October 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1, 40-46 and 109-125 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 40-46, and 109-125 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SEI/02)
Paper No(s)/Mail Date 10/05/2009
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 10/02/2009 has been entered.

Response to Amendment

2. Claims 1, 109-110, 113-114, and 117-118 are amended. Claim 125 is new. Claims 2-39 and 47-99 are withdrawn. Claim 125 is new. Claims 1, 40-46, and 109-125 are pending and are provided to be examined upon their merits.

Response to Arguments

3. The prior art rejection to the claims is withdrawn. Patent No. US 6,278,982 to Korhammer et al. does not teach executing a representation process or synchronizing processing of orders for simultaneously executing orders. A 35 USC 112, 2nd paragraph rejection is provided for indefinite claim language. The Examiner thanks the Applicant for amending the claims and wishes to work with the Applicant to forward the prosecution of the case.

35 USC 112, 1st paragraph rejections to claims 1, 40-46, and 109-124 for enablement and written description arguments are withdrawn based on claim amendments.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 1, 40-46, and 109-125 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
6. Claim 1, for example, has “executing...at least two market processes...” where it is indefinite as to how market processes are executed. This is interpreted to mean “receiving...at least two market processes...” This is also true for independent claims 109 and 117.
7. Claim 1, for example, has “executing...a representation process that is configured to communicate with at least two market processes...” where it is indefinite as to how a representation processes is executed. This is interpreted to mean “communicating with at least two market processes during overlapping time interval...” This is also true for independent claims 109 and 117.
8. Claim 1, for example, has “wherein pairing of orders by one of the at least two market processes causes...” where there is no antecedence for pairing. In other words, how can pairing cause market processes to send if pairing has not been performed.

There is interpreted to be a pairing step that precedes this step. This is also true for independent claims 109 and 117.

9. Claim 125 is a means plus function step. Means plus function steps require a specific algorithm that transforms a general purpose computer to a special purpose computer. *Aristocrat Technologies Australia Pty Ltd. v. International Game Technology* (CAFC, 2008, 521 F3d 1328) Applicant is requested to provide where in the specification the specific algorithm is taught. Examiner thanks the Applicant in advance.

10. Claims 40-46, 110-116, and 118-124 are rejected because they depend from their respective independent claim.

Examiner Request

11. The Applicant is requested to indicate where in the specification there is support for amendments to claims should Applicant amend. The purpose of this is to reduce potential 35 U.S.C. §112, 1st paragraph issues that can arise when claims are amended without support in the specification. The Examiner thanks the Applicant in advance.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to KENNETH L. BARTLEY whose telephone number is (571)272-5230. The examiner can normally be reached on Monday through Friday, 8:00 - 5:00 EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jagdish Patel can be reached on (571) 272-6748. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/JAGDISH N PATEL/

Primary Examiner, Art Unit 3693